



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

MEMORANDUM

**TO:** Barry E. Hill, Director, Office of Environmental Justice ("OEJ")  
Office of Enforcement and Compliance Assurance ("OECA")

**FROM:** Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

**DATE:** January 19, 2006

**RE:** "Environmental Justice in the News" for the Week Ending January 20,  
2006

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This memorandum summarizes select environmental justice news actions for the period beginning December 30, 2005 through the week ending January 20, 2006. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low\*\*\*income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that multiple articles covering the same topic were not included. Similarly, articles on international or foreign-based environmental justice issues were not included, unless they specifically pertained to the United States.

1. **News Items.**

The following news was particularly noteworthy:

- **"Poor Blacks Battling Long Odds; Many Want to Return, Can't Pay Their Own Way," Biloxi Sun Herald (Miss. Jan. 12, 2006) at C3.**  
According to the article, many of the poor, black inhabitants of New Orleans remain unable to return to the City due to the lack of affordable public housing. In asserting that Hurricane Katrina "offered a window into the breadth and depth of black poverty," the article stated that "a more slender [New Orleans] will emerge . . . [as evidenced by the fact that] only 477 units of public housing are occupied; pre-Katrina, there were 5,000. The article concluded by noting Dr. Beverly Wright's concern for the black voters of New Orleans, since many of them are absent and have little say in shaping their future destiny.

- **“Sierra Club Launches Television Series,” Associated Press Online (Jan. 12, 2006).** According to the article, the Sierra Club will team up with filmmaker Robert Greenwald and launch a new television series, entitled “Sierra Club Chronicles,” that will document “stories about individuals and communities fighting for environmental justice.” The article states that seven one-half hour episodes will be made and will air monthly. The first episode, “9/11 Forgotten Heroes,” details the “story of firefighters, construction workers, and emergency personnel who continue to suffer from health problems from contamination at Ground Zero and must fight the government for health benefits.”
- **“First N.O. Rebuilding Report Due Out Today,” Advocate (Jan. 11, 2006) at A8.** According to the article, members of New Orleans Mayor Ray Nagin’s blue-ribbon rebuilding panel were scheduled to release the first of seven key reports on January 11, 2006. The article stated that the first report, from the Bring New Orleans Back Commission’s Urban Planning Committee, would likely focus on a proposed window of time “in which neighborhoods would be allowed to redevelop on their own, with areas that failed to do so targeted for buyouts after that period.” The planned timeframe for this to occur was one year. Critics of this proposal asserted that such a plan would lead to scattered development and appeared to represent “no plan at all.” The article concluded that the plan might also include a proposed transit system, including a high-speed commuter route from Baton Rouge to Biloxi.
- **“California Toxics Director Draws Praise, Speculation,” Risk Policy Report (Jan. 10, 2006).** According to the article, the selection of Maureen Gorsen as the new Director for California’s Department of Toxic Substances Control (“DTSC”) has drawn praise from various stakeholders. The article asserted that the possibility exists that Ms. Gorsen, the current Deputy Secretary for Law Enforcement and Counsel at California’s EPA, may “lead the toxics department into significant permitting, brownfield, and environmental justice reforms.” While industry groups and environmentalists both praise Ms. Gorsen’s selection, they also noted that DTSC needs much improvement in a number of areas. For instance, the groups asserted that DTSC must update its science, streamline its permitting process, increase its enforcement in nontraditional areas, and improve its ability to respond to brownfields concerns.
- **“Danger in the Water: San Jerardo Residents Contend with Contaminated Wells,” Herald (Monterey County, CA Jan. 10, 2006).** According to the article, contaminated groundwater continues to plague residents at the San Jerardo Cooperative, which is south of Salinas, California. Due to high nitrates levels, the tap water in San Jerardo has not been potable for nearly five years. In addition, the 64 families that live there believe that the contaminated water may be causing health problems,

such as skin rashes and hair loss. In addition to the nitrates, 1,2,3-trichloropropane, a fumigant and cleaning agent, has been observed in the water. Exposure to this carcinogen has been known to cause throat and eye irritation. The article concluded by noting the despair that the residents feel due to the contaminated water and the fact that nothing has been done to decontaminate it.

- **“Bottom of 9th for Stadium,” Daily News (N.Y. Jan. 10, 2006) at 1.** According to the article, a public hearing was scheduled to be held on January 11, 2006 to discuss plans to build a new \$800 million Yankee stadium and retail complex. Local Community Board 4 had previously voted down plans to build the new stadium, which some believe presents an unspecified “real environmental justice issue.” The article noted that the City Planning Commission will vote on the issue in late February.
- **“U.S. Has Improved Environmental Performance, Panel Says; International Review Shows Substantial Gains, Suggests Improvements,” State Department Documents and Publications (Jan. 10, 2006).** According to the article, the International Organization for Economic Cooperation and Development (“OECD”) issued a report that asserted that “the United States has improved its environmental performance in the past eight years, even as its economy and population has grown.” The report, which documented the period from 1996 to 2005, noted a 10 percent increase in the size of the United States population and a 30 percent increase in the Nation’s gross domestic product. However, as EPA Administrator Stephen L. Johnson pointed out in a briefing on the document, the OECD review also determined that despite the increase in economy and population, “the health of [the United States’] shared environment . . . [has] experienced dramatic improvement.” Specifically, the OECD report commended the United States for its improvement in areas such as: the decline of major air pollutant emissions; the strengthening of drinking water standards; the expansion of an extensive system of national conservation areas; and a substantial increase in environmental justice considerations. The article concluded by noting Administrator Johnson’s view that the report “supports [EPA’s] long-standing belief that we can protect the environment and public health in ways that make both economic and environmental sense.”
- **“Cherry Island Ruling Fails to Ease Environmentalists’ Biggest Concern,” News Journal (Del. Jan. 8, 2006) at 1B.** According to the article, Delaware’s Department of Natural Resources and Environmental Control (“DNR”) announced on January 6, 2006 that it would grant a conditional permit to increase Wilmington’s Cherry Island landfill in height by 30 feet. DNR’s announcement, however, was met with disappointment from environmentalists who opposed expansion of the

landfill on unspecified environmental justice grounds. Instead, environmentalists had hoped that DNR would develop a new landfill elsewhere and noted that the DNR's actions reflect a continuation of "environmental racism." While DNR stressed that its actions will lead to the end of the landfill, since the permit requires that the landfill can not accept yard waste after 2006, environmentalists remained cynical and point to other "supposedly closed" landfills that still receive dumping.

- **"Neighborhood Pollution Data at Risk," San Jose Mercury News (Jan. 8, 2006) at OP2.** According to this editorial, the future of the national Toxics Release Inventory ("TRI") may have significant implications for environmental justice in California. The editorial, which asserted that the "TRI [while limited] is perhaps one of the most successful regulatory tools promulgated by EPA in over a decade," discussed the proposed changes to the TRI, which include the required reporting of emissions every two years, instead of annually, and the exemption of some facilities by the tenfold increase in the required reporting threshold from 500 to 5,000 pounds of emitted pollutants. In addition, the editorial noted that the "TRI also has been an essential tool for tracking environmental justice concerns." Accordingly, the editorial asserted that changing the TRI would affect nearly 60 ZIP codes, because they "would lose a significant amount of pollution information due to changing reporting requirements, with over half of these tracts having at least 45 percent minority residents and a large proportion of people living below the poverty line. Many of these communities, including some near high-tech but often toxic production facilities in Silicon Valley, have been the epicenter of environmental justice campaigns to hold firms accountable for the impact of their facility operations on surrounding communities." The editorial concluded in stating that "[b]y weakening reporting requirements for the TRI, EPA undermines the foundation of right-to-know legislation that has allowed communities to protect public health while allowing industry to improve its performance."
- **"EPA Region 7 to Hold Environmental Justice Small Grants Workshop," States News Service (Jan. 4, 2006).** On January 12, 2006, Region VII of the United States Environmental Protection Agency ("EPA") was scheduled to hold an Environmental Justice Small Grants Workshop at the Regional Office in Kansas City, Kansas. The one-day workshop was to provide information to help organizations apply for Environmental Justice small grants. The workshop was free and covered criteria for grant applications, preparation of the grant application, the review and selection process, as well as the award notification process.
- **"Town Meeting in Spanish," Daily News of Los Angeles (Jan. 4, 2006) at N4.** Managers of the Bradley Landfill in Sun Valley, California plan to hold a meeting in early February with residents in the area in Spanish to

discuss their proposal to expand the dump's capacity by 4.7 million cubic yards, or approximately 10 percent. Residents who speak English will wear headphones and listen to a translation of the discussion. The decision to conduct the meeting in Spanish stems from the fact that 25 percent of the Sun Valley residents speak little or no English. In fact, the percentage of such residents probably increases in neighborhoods closest to, and most impacted by, the landfill. According to the article, Waste Management, the landfill's owner, believed that the best way for the residents to be informed and to participate comfortably in the process was to conduct the meeting in Spanish.

- **“Activists Eye Gulf Coast as Test for New Guide on School Siting Bills,” Risk Policy Report (Jan. 3, 2006).** According to the article, environmentalists view the Gulf Coast restoration effort as a means to test a new guide for drafting legislation to ensure that schools are built in locations that do not expose children to contamination that poses health risks. The new guide, which the Center for Health, Environment, and Justice (“CHEJ”) issued last month, stemmed from an increasing concern that school districts seek contaminated property, because the land is inexpensive and easier to obtain. CHEJ’s guide, which was drafted in consultation with engineers, public health experts, environmental remediation experts, and attorneys, offers guidance for communities and lawmakers to use when drafting regulations, policies, or legislation that could prevent schools from being built on contaminated properties. Contaminated former industrial and commercial properties, or brownfields, are often selected as new school sites in urban areas due to the “lack of available property and the need for new schools due to growing student enrollment.”
- **“Groups Express Concern Over Pace of Lead Removal in St. Louis,” Associated Press State and Local Wire (Jan. 3, 2006).** According to the article, several community groups have criticized the City of St. Louis for not removing lead from homes built prior to 1978, which endangered children by placing them at risk for poisoning and delayed development. The article noted that the groups’ acknowledgement of the City’s progress in educating residents and testing homes; however, the groups determined that the City failed to remove lead when it was found. The groups want the City to remediate lead in homes that contain lead-based paint on window frames, doors, or walls to protect young children who are particularly vulnerable and may develop learning disabilities, behavioral problems, kidney damage, or even cause death.
- **“UML Gets \$150,000 Health Grant,” Lowell Sun (Mass. Dec. 29, 2005).** According to the article, EPA awarded a \$150,000 grant to the University of Massachusetts Lowell (“UMass”) to teach nurses how to better understand, diagnose, and prevent environmental health hazards,

including from everyday items that may contain dangerous chemicals, that children may encounter. Professor Stephanie Chalupka will use the money, along with two other UMass professors, to travel around New England and teach approximately 200 nurses, who often represent the first point of contact for parents seeking care for their children, about environmental dangers in urban cities. According to the article, “[a]ny urban area in the Northeast is going to have a disproportionate amount of environmental hazards or risks[, and poor] and minority children are also at a greater risk.” The article concluded by articulating Dr. Chalupka’s goal of ensuring that nurses will “treat the causes of the environmental health concerns” rather than solely looking at the effects.

- **“Foul Fowl Odors Prompt Missouri to Call for Break. A Waste-to-Oil Plant with ConAgra Ties Fails Air-Quality Rules, the Governor Says,” Omaha World-Herald (Neb. Dec. 30, 2005) at 1D.** In response to complaints of foul odors, Missouri’s Governor, Matt Blunt, ordered a temporary halt on December 28, 2005 to the operation of a plant that converts turkey byproducts into fuel oil. The plant, owned by ConAgra foods (“ConAgra”), had transformed up to 270 tons of turkey feathers, bones, blood, and guts into 300 barrels of oil a day in a process known as thermal depolymerization. Governor Blunt’s order to temporarily shut down the plant will allow Missouri’s Natural Resources Department to review the ConAgra’s operations. The article noted Governor Blunt’s concern for the affected residents due to the terrible odors and the potential negative impact the odor may have on business, tourism, and job growth.
- **“Environment Important in District 2; Faulconer, Gonzalez Cite Green Credentials in Race,” San Diego Union-Tribune (Dec. 29, 2005) at B1.** According to the article, San Diego’s District 2 City Council race may be decided on the candidates’ environmental records. The area, which houses some the City’s prime beach and bay neighborhoods, is slightly Democratic; however, it is also known for Republicans with a green bent. The article asserted that the Democratic candidate, Lorena Gonzalez, has been endorsed by all of the environmental groups. As noted on the January 10, 2005 ballot, Ms. Gonzalez is an environmental attorney, who served as Senior Advisor to Lieutenant Governor Cruz Bustamante. In this capacity, Ms. Gonzalez was able to, among other things, “forge a policy that incorporates the idea of environmental justice into state agency decision-making.” Her opponent, Kevin Faulconer, chairs the Mission Bay Park Committee and sits on the Parks and Recreation Board. Mr. Faulconer was endorsed by the San Diego Regional Chamber of Commerce, building groups, and Carolyn Chase, who is the Sierra Club’s San Diego chapter endorsed Planning Commissioner.

- **“John Brittain and Beverly Wright Discuss Hurdles to a New Orleans Homecoming,” News and Notes with Ed Gordon (National Public Radio Broadcast, Dec. 28, 2005).** The article summarized an interview with John Brittain, the Chief Counsel and Senior Deputy for the Lawyers Committee for Civil Rights under Law, and Dr. Beverly Wright, the Director of the Deep South Center for Environmental Justice. The topic discussion was the devastation that Hurricane Katrina caused and the resulting lawsuit against the Federal Emergency Management Agency (“FEMA”). Mr. Brittain discussed the holding in the lawsuit that FEMA had to continue to pay the hotel bills of over 40,000 displaced New Orleans residents. Mr. Brittain stated his belief that despite the positive ruling, “a crisis of potential homelessness [exists] because many of the persons in these hotels are very poor.” Dr. Wright was brought into the discussion, and she articulated her belief that while the contamination in New Orleans is not as bad as expected, “the federal government doesn’t seem to have its act together on when and how it’s going to assist us in cleaning up our neighborhoods.” Dr. Wright concluded by articulating her view that a new “racial reality” was forming in the neighborhoods of New Orleans, such that white neighborhoods are being repopulated while black neighborhoods “are considered inferior.”
- **“EPA Screws New York,” Village Voice (N.Y. Dec. 27, 2005) at 38.** The article criticized EPA for its final plan, which the Agency announced on November 29, 2005, to test for, and clean, lingering dust from the September 11 attacks on the World Trade Center. Specifically, the article asserted that EPA scaled back an earlier clean-up plan, which the article believed was more comprehensive in terms of the area covered, types of materials tested for, and alternative sampling methods. In addition, the article noted criticism that lower Manhattan’s representative, Congressman Jerrold Nadler, levied against EPA in stating that the Agency’s perceived failure to accurately state the risks constituted a “cover-up” of the contamination. EPA denied that any cover-up existed. The article concluded by stating that Congressman Nadler and Senator Hillary Clinton (D-N.Y.) have requested that the United States Government Accountability Office investigate EPA’s “failure to establish an effective, science-based testing and cleanup plan.”
- **“Dillard Gets Help in Effort to Rebuild Campus; University in Gentilly Took 8 Feet of Water,” Times Picayune (Dec. 26, 2005) at 1.** According to the article, the American Jewish Committee presented Dillard University’s President, Marvalene Hughes, a check for \$200,000 on December 21, 2005 to help rebuild the University’s battered Gentilly campus, which was inundated with as much as 8 feet of water from Hurricane Katrina. In addition, the article noted that the University of New Orleans’ earth and environmental science programs received a \$100,000 grant from Exxon Mobil on December 22, 2005 to aid students

with Hurricane Katrina related expenses and to help recruit minority students.

- **“Waste Plant Blocked,” Sacramento Bee (Dec. 23, 2005) at B1.** On December 21, 2005, an appeals board in the Tehama County Air Pollution Control District (“Board”) voted to revoke construction permits for Inentec Medical Services (“Inentec”), which had just broke ground to construct a high-tech medical waste processor. According to the article, no air pollution regulators opposed the project, and the county planning authorities granted Inentec a land-use permit with a “no significant environmental impact” determination; however, the Board determined “the agency’s regulators had failed to adequately examine the emissions data the company submitted to win approval for operating a new waste recycling technology called a ‘plasma enhanced melter.’” According to the Board, had the regulators examined the emissions data thoroughly, they would have discovered that the data came from tests of a smaller and different model of the processing system than would have been installed. The Board’s decision, which came after 10 days of testimony in hearings, pleased a group of residents from Red Bluff, which would have been the site for the processor, who “learned through interviews and record searches that the Inentec systems emit cancer-causing dioxins and other toxic air contaminants, although at levels much lower than those from medical waste incinerators.”
- **“Environmentalists Seek Court Review of Rule on NO<sub>x</sub> Emissions Over Parks,” Inside Energy with Federal Lands (Dec. 19, 2005) at 8.** On December 19, 2005, environmentalists filed a lawsuit with the D.C. Circuit Court of Appeals that challenged a rule that EPA issued in October 2005, which established regional cap and trade programs to reduce power plant nitrogen oxide (“NO<sub>x</sub>”) emissions at natural parks or other environmentally sensitive areas. According to the article, the environmental groups believed that the rule, which would allow plant owners to buy pollution-reduction “allowances” from other facilities instead of installing expensive pollution-control equipment, reflected “EPA’s refusal to strengthen rules required by the Clean Air Act to protect air quality.” The article noted that the groups were particularly concerned with the rule’s potential effects on western national parks, due to a proposal to install 20 major new coal plants in the Rocky Mountains.
- **“Unequal Exposure: Environmental Justice Advocates Mobilize to Ensure Minority Communities Are Not Left Out of the Hurricane Katrina Cleanup,” Diverse Issues in Higher Education (Dec. 1, 2005) at 32.** The article discussed the effects of Hurricane Katrina, particularly its effects on Louisiana’s environmental justice movement. Specifically, the article documented Dr. Beverly Wright’s struggles following the Hurricane as evidenced by the displacement of her and family, as well as



its negative effect on the planned relocation of the Deep South Center for Environmental Justice, which she founded, from Xavier University to Dillard University, which was “the hardest hit of all the New Orleans-based college and university campuses.” In recounting the history of the environmental justice movement, which the article described as an effort to mobilize activists, scholars, and ordinary citizens on “behalf of communities that have been overburdened with hazardous waste sites, petrochemical plants, incinerators, lead contamination, polluted air, and contaminated drinking water,” the article noted that evidence of “environmental racism” existed in which “minorities have been disproportionately victimized by exposure to toxic wastes by companies that have deliberately built their disposal facilities near minority communities.” The article further noted that Hurricane Katrina revealed New Orleans’ “precarious environmental situation;” in addition, the Hurricane is deemed responsible for outbreaks of “‘Katrina cough,’” that returning residents appeared to have developed due to mold and dust. The article concluded by highlighting Dr. Wright’s concerns that Hurricane Katrina has altered the City’s demographics in that New Orleans, which was formerly 67 percent Black, is now only 35 to 45 percent Black.

## 2. **Recent Litigation.**

- **In re Spirito Family Trust, No. HWCA SRPD05/06 SAE0-4346, 2005 Cal. ENV LEXIS 71 (Cal. Dep’t Toxic Substances Control Oct. 7, 2005).** The California Department of Toxic Substances (“Department”) issued an imminent and substantial endangerment determination and order to Spirito Family Trust (“Spirito”) on October 7, 2005. Spirito had leased property that housed a chemical facility to Excelllo Plating, Inc. (“Excelllo”), who left various hazardous substances, such as chromium, cyanide, and acid, stored at the facility after abandoning it. Based on an assessment of the property and surrounding area, which was done using EPA’s Environmental Justice Geographic Assessment Tool, the site was determined to be situated in a “primarily mixed ‘residential’ and ‘light industrial’ area with an approximate population of 6504 persons in a half mile radius.” The Department determined the hazardous substances posed an imminent and substantial endangerment to the public health and safety, because residential, commercial, and industrial developments were nearby. Accordingly, Spirito was ordered to cover all containers and tanks known to contain hazardous wastes and submit a workplan for the removal and disposal of all aboveground hazardous wastes/materials at the site. No penalties were assessed, however.
- **Valdez v. Town of Brookhaven, No. 05-CV-4323, 2005 U.S. Dist. LEXIS 36713 (E.D.N.Y. Dec. 15, 2005).** The plaintiffs initiated this class action lawsuit against the defendants by alleging violations of the Due Process Clause, Equal Protection Clause of the Fourteenth Amendment,

and the Fair Housing Act. Specifically, the plaintiffs alleged that the defendants adopted a practice in which “no notice, no standards” evictions were used to remove Latino tenants from the non-owner occupied homes where they lived. The plaintiffs sought, among other things, a permanent injunction that would enjoin the defendants from continuing the “no notice, no standards” evictions. In dismissing the plaintiffs’ Due Process claims, the court found that the plaintiffs failed to establish a valid tenancy under New York state law. The plaintiffs had argued that their monthly payments of rent established a valid month-to-month tenancy; however, the fact that the lease was created in violation of New York zoning and occupancy laws created no cognizable property rights. Therefore, “because [plaintiffs’] leaseholds were created in violation of state law, their due process claims must fail.” With regard to the Fair Housing Act claims, plaintiffs, while acknowledging the legitimacy of the Town’s zoning laws, claimed that the recently adopted enforcement procedures’ with regard to a zoning ordinance related to the maximum occupancy of residents in a living space, had a disparate, adverse impact on Latinos and were undertaken with the intent to discriminate against Latinos. The court found that the plaintiffs had set forth “a sufficient disparate impact case to satisfy a showing of likelihood of success on the merits with respect to their Fair Housing Act claims,” because the defendants’ enforcement actions in preventing Latino tenants from returning to their homes were suspect. Specifically, the court determined that failure of the defendants to undertake formal enforcement, such as providing notice, prior to their removal of the tenants was not appropriate. Based on its finding of probable disparate impact, the court also found that discriminatory intent also probably existed, because “the enforcement procedures: (1) have had a 100% impact on Latinos; and (2) constitute a marked departure from the procedures adhered to in prior zoning enforcement actions brought by the town.” Accordingly, the court determined that the plaintiffs, having met their Federal Housing Act claims, suffered irreparable harm and granted the preliminary injunction.

- **In re Amendment to Madison County Solid Waste Management Plan, No. 5058 05, 2005 Miss. ENV LEXIS 65 (Aug. 25, 2005).** In this case, the Mississippi Commission on Environmental Quality (“Commission”) held an evidentiary hearing to decide a request to amend the Madison County Solid Waste Management Plan (“Plan”) to include a proposed municipal solid waste landfill. The Mississippi Department of Environmental Quality (“Department”) reviewed the amendment request and focused on ensuring that the Plan contained all the necessary components that the law and regulations required. Upon completion of its review, the Department identified areas of concern, including whether environmental justice issues were considered when the preliminary siting occurred. During the hearing, much of the testimony in opposition to approving the amendment focused on environmental justice concerns, as

numerous residents testified their belief “that they will be disproportionately and adversely affected by the addition of the new landfill in a county that already has two nearby operating solid waste landfills.” In opposition, a witness for Madison County Board of Supervisors (“Madison County”), which requested the amendment to the Plan, testified that the “siting of the landfill would fully comply with the Department’s environmental justice goals.” In finding that Madison County had preliminarily considered environmental justice issues and provided for public participation in its decision to amend its solid waste plan, the Commission determined, “[t]he Department reviewed the GeoScience report, as well as . . . EPA’s web-based Environmental Justice Geographic Assessment Tool, and concluded that, while the location of three solid waste disposal sites in such close proximity raises potential concerns, Madison County provided numerous opportunities for meaningful public involvement.” The Commission further held, “the Department concluded that Madison County had given the level of review and consideration to these matters that is required at this stage, without significant environmental justice implications being identified.” The Commission concluded that “[w]hile environmental justice is an important issue, state law does not require the County to conduct a review of environmental justice issues in amending its plan. The Department considers the opportunity for meaningful public involvement to be the most important factor in environmental justice review.”

### 3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

#### A. **Federal Congressional Bills and Matters.**

- No noteworthy congressional bills or matters were identified for this time period.
- No noteworthy *Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice* were identified for this time period.
- **Federal Register Notices.**
  - **DOI, Long-Term Miscellaneous Purposes Contract, Eddy County, N.M., 71 Fed. Reg. 2064 (Jan. 12, 2006).** Pursuant to the National Environmental Policy Act of 1969 (“NEPA”), the Bureau of Reclamation of the Department of Interior (“DOI”) has jointly prepared a draft environmental impact statement (“DEIS”), with the New Mexico Interstate Stream Commission, on the execution of a long-term contract based upon the 1920 Sale of Water for Miscellaneous Purposes Act with the Carlsbad Irrigation

District, New Mexico, and subsequent conversion and delivery of the full amount of irrigation water addressed in the contract. Comments on the DEIS are due by March 13, 2006, and a meeting on the DEIS will be held in Carlsbad, New Mexico on February 8, 2006. The DEIS will analyze two alternatives, including a No Action Alternative. In looking at the alternatives, the DEIS, among other things, will assess the potential disproportionate effects on minority or low-income communities.

- **EPA, Lead; Renovation, Repair, and Painting Program, 71 Fed. Reg. 1588 (Jan. 10, 2006).** In an action that purports to help eliminate childhood lead poisoning by 2010, EPA proposed new requirements, pursuant to Section 402(c)(3) of the Toxic Substances Control Act (“TSCA”), to reduce lead exposure due to renovation, repair, and painting activities that disturb lead-based paint. Specifically, the proposal would: establish training requirements for renovators and dust sampling technicians; certify renovators, dust sampling technicians, and renovation firms; accredit providers of renovation and dust sampling technician training; and establish renovation work practices requirements. EPA seeks comments by April 10, 2006; however, comments on the information collection provisions must be sent to the Office of Management and Budget by February 9, 2006. According to the preamble, EPA assessed the potential impact of the proposal on minority and low-income populations and concluded that the rule will not have disproportionately high and adverse human health or environmental effects on these populations.

- **EPA, Iodomethane Risk Assessment, Notice of Availability, 71 Fed. Reg. 930 (Jan. 6, 2006).** EPA announced the availability of its human health risk assessment and related documents for the pesticide iodomethane. In soliciting public comment on these documents by February 6, 2006, EPA requested that the public provide comment on the human health risk assessment for the fumigant, which is a new chemical under consideration for registration. Iodomethane has been identified as a potential partial replacement for methyl bromide. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to iodomethane, compared to the general population.”

- **DOE, Record of Decision and Floodplain Statement of Findings; Bangor Hydro-Electric Company Northwest Reliability Interconnect, 71 Fed. Reg. 587 (Jan. 5, 2006).** The Department of Energy (“DOE”) announced its decision to implement its preferred alternative in the Final Environmental Impact Statement for the Bangor Hydro-Electric Company

(“Bangor”) Northeast Reliability Interconnect. Under this alternative, DOE will authorize Bangor to construct, operate, maintain, and connect a single-circuit 345,000-volt electric transmission line that would originate in Orrington, Maine, cross the United States-Canada border, and end in New Brunswick, Canada. In reaching its decision, DOE considered “the low environmental impacts in the [United States] from constructing, operating, and maintaining the [proposed transmission line], the lack of adverse impacts to the reliability of the [United States] electric power supply system, and the lack of major issues of concern to the public.” For instance, in reviewing the Cumulative Impacts of the proposed action, DOE concluded that the proposed transmission line did not present any disproportionately high and adverse impacts for minority and low-income populations. Therefore, DOE believed that the proposed transmission line “would not contribute cumulatively to any environmental justice impacts.”

— **EPA, Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Vigo County Nonattainment Area to Attainment of the 8-Hour Ozone Standard, 71 Fed. Reg. 541 (Jan. 5, 2006).** In this final rule, EPA determined that the Vigo County 8-hour ozone nonattainment area has attained the 8-hour ozone National Ambient Air Quality Standard (“NAAQS”). Accordingly, EPA approved a request from the State of Indiana to redesignate Vigo County from nonattainment to attainment for the 8-hour ozone NAAQS. As part of this approval, EPA considered Executive Order 12898 and determined that its action should prevent violations of the health-based national ambient air quality standard. In addition, the action “does not result in the relaxation of control measures on existing sources and therefore will not cause emissions increases from those sources. Overall, . . . emissions in the area are projected to decline following the redesignation. Thus, [EPA’s] action will not have disproportionately high and adverse effects on any communities in the area, including minority and low-income communities.”

— **DHS, Preparedness Directorate; Protective Action Guides for Radiological Dispersal Device (“RDD”) and Improvised Nuclear Device (“IND”) Incidents, 71 Fed. Reg. 174 (Jan. 3, 2006).** The Preparedness Directorate of the Department of Homeland Security (“DHS”) issued a draft guidance, entitled “Application of Protective Action Guides for Radiological Dispersal Devices (“RDD”) and Improvised Nuclear Device (“IND”) Incidents” for federal agencies and, as appropriate, state and local governments, emergency responders, and the general

public who may find it useful in planning and responding to a RDD or IND incident. Among other things, the guidance recommends “protective action guides” to support decisions about potential actions to protect the public when responding to, or recovering from, a RDD or IND incident. In addition, the guide discusses risk management options and examines the effectiveness, feasibility, costs, and benefits of the options. Environmental justice issues are among the considerations in analyzing the risk management options. The draft guide is available for interim use effective January 3, 2006; however, comments are requested on this draft until March 6, 2006.

- **EPA, Metaldehyde Risk Assessments, Notice of Availability, and Risk Reduction Options, 70 Fed. Reg. 77,382 (Dec. 30, 2005).** EPA announced the availability of its risk assessments and related documents for the pesticide metaldehyde. In soliciting public comment on these documents by February 28, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a Reregistration Eligibility Decision (“RED”) for metaldehyde through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to metaldehyde, compared to the general population.”
- **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 70 Fed. Reg. 77,380 (Dec. 30, 2005).** EPA announced the availability of its comments pursuant to the Environmental Review Process (“ERP”), as required by Section 309 of the Clean Air Act (“CAA”) and Section 102(2)(c) of the National Environmental Policy Act (“NEPA”). With regard to the draft Environmental Impact Statements, EPA raised environmental concerns with the “Craney Island Eastward Expansion, Construction of a 580-Acre Eastward Expansion of the Existing Dredged Material Management Area” in the Port of Hampton Roads area, due to environmental concerns about the potential impacts to aquatic resources and environmental justice communities.

#### B. State Congressional Bills and Matters.

- **California, Assembly Bill 1020, introduced on February 22, 2005 by Assembly Member Loni Hancock (D-District 14). Status: Amended on January 4, 2006.** This Bill purported to add Chapter 2.68 to Division 1 of Title 7 of the Government Code, relating to planning. Specifically,

the Bill would require Department of Transportation to partner with certain metropolitan planning organizations and certain state-designated regional transportation agencies to develop and implement improved regional travel models that incorporate, among other things, smart growth concepts. In addition, the Bill would require all transportation models be made publicly available. Among the required items to be included within the travel models would be simple evaluation measures for environmental justice.

- **Georgia, House Resolution 1040, introduced on December 28, 2005 by Representative Tyrone L. Brooks, Sr. (D-District 63). Status: House Second Readers on January 13, 2006.** The Resolution honors Rosa Parks, Dr. Ralph David Abernathy, Sr., Reverend Hosea Williams, and Dr. Joseph Lowery and recognizes their accomplishments as worthy of enduring memorials. Further, the Resolution authorizes the placement of their portraits in the State Capitol. The Resolution then briefly summarizes the significant contributions and accomplishments of each honoree. With respect to Dr. Lowry, the Resolution noted his contributions in leading protests in Warren, North Carolina “against the dumping of toxic waste in poor communities, which led to the environmental justice movement.”
- **New York, Assembly Bill 2838, introduced on January 28, 2005 by Assemblywoman Deborah J. Glick (D-District 66). Status: Referred to the Committee on Corporations, Authorities, and Commissions; Recommended to the Committee on Rules in Accordance with Assembly Rule 3 on January 5, 2006.** The Bill purported to amend the public authorities law, in relation to converting certain vehicles of the metropolitan transportation authority to alternative fuel vehicles. Included among provisions of the Bill is the submission of a long-term strategic plan to convert the existing diesel bus fleet to alternative fuel vehicles in a way that promotes improved air quality, provides safe and efficient public transportation at a reasonable cost, and advances environmental equity.
- **Virginia, Senate Bill 107, introduced on January 11, 2006 by Senator Henry L. Marsh III (D-District 16). Status: Offered.** The Bill amends and reenacts Sections 2.2-2725, 2.2-2726, and 2.2-2720 of the Virginia Code related to the governing structure of the Martin Luther King, Jr. Living History and Public Policy Center (“Center”), an independent nonprofit corporation. The provisions of this act expire on July 1, 2007. Among the provisions of the Bill, which was recommended by the Dr. Martin Luther King, Jr. Memorial Commission, is a requirement that the Center “[c]onduct public forums, conferences, lectures, and research to address contemporary issues and public policies, including, but limited to, disparity in health care . . . [and] environmental justice.”

- **State Reg. Alerts.**
  - **New York, Department of Environmental Conservation, Regulatory Agenda, 2005 Reg. LEXIS 480 (Jan. 4, 2006).** Included among the many listed actions is the proposed amendment to 6 NYCRR Part 617, State Environmental Quality Review Act (“SEQR”). Specifically, the Division of Environmental Permits proposed to amend the Part to change the Environmental Assessment Forms (“EAFs”), which are model forms that most state and local agencies use to conduct environmental review under the SEQR, and enable electronic submission and dissemination of environmental impact statements. Among the proposed changes to the EAFs is the need to add questions “to address emerging issues, such as economic development zones, quality communities, and environmental justice.”
  - **Pennsylvania, Department of Environmental Protection, Board and Committee meeting Schedules for 2006, 2005 Reg. LEXIS 57169 (Dec. 24, 2005).** The notice provided a list of 2006 meetings of advisory and other boards and committees associated with the Pennsylvania Department of Environmental Protection. Of interest, was the schedule for the quarterly meetings of the Environmental Justice Advisory Board, which will be held in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, Pennsylvania. The meetings typically will begin at 9:15 AM and are scheduled to be held on: February 7, 2006; May 4, 2006; August 10, 2006; and November 2, 2006.